

The Public Service Governance in Japan:

Is an NPO an Agent or a Partner? *

Kosuke OYAMA, Ph.D.

Professor of Public Administration and Policy

Department of Political Science, Faculty of Law

Keio University

JAPAN

1. The Meaning of “From Government to Governance”

The purpose of this paper is to present an overview of the development of the Japanese nonprofit organizations (NPO)¹ and their delivery of public services in partnership with government, to evaluate their present situation and to consider their likely future direction from the perspective of the concept of governance.

“From Government to Governance” is the title of our panel. It is useful to clarify what we mean by governance. R. A. W. Rhodes (1997: 15) defined governance as “*self-organizing, interorganizational networks* characterized by interdependence, resource exchange, rules of the game and significant autonomy from the state.” He then asserted that a “hollowing out the state” had occurred and questioned the validity of the state-led Westminster model as a descriptor of reality by noting the emergence of networks in the United Kingdom among the many public service providers at both the local and global levels, including the National Health Service Trusts and the European Regional Development Fund (ERDF) of the European Union.

What, precisely, is the role of government in governance? Does “from government to governance” mean that the state has no role or responsibility in providing public services? Or is it a matter of the state having a different role? “From rowing to steering” was the slogan chosen in the US National Partnership for reinventing Government or National Performance Review (NPR) in its discussion of “reinventing government.” The organizational separation between policy planning and its implementation is the main concern of the New Public Management (NPM). In response to the increase in the number of and increased variety of public needs under conditions of governmental budgetary deficit, the government and the public or first sector has no choice but to stop delivering public services directly and either abandon, privatize, or contract these out (outsource) to actors in the private (second) and non-profit (third) sectors. Under arrangements of this kind government finances service providers and coordinates their activities through overall planning.

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¹ A variety of terms are used to refer to NPO or “third” sector: non-governmental organizations (NGOs), voluntary organizations, community based organizations (CBOs), citizen groups, nonprofit sector, voluntary sector, civil society, etc. Some of them have ideological connotations. The Liberal Democratic Party (LDP) of Japan, for instance, after a great amount of debate changed the name of the Bill to Promote Citizen Activities to the Law to Promote Specified Nonprofit Activities (the NPO Act) in the upper house of the Diet (Hatsutani 2001: 314-318). We will define NPOs here as “nongovernmental organizations constituted so that they cannot distribute net profits (the profits remaining after costs are deducted from receipts) to interested parties” (Yamauchi, 1999: 2). Hatsutani (2001: 10-15) characterizes NPOs as being nonprofit, nongovernment (private), and voluntary.

It is necessary to better elaborate the character of government-third sector relations. Is third sector a mere agent of government or is it a partner? What does it mean to be a partner or an agent of government? What are the differences involved in the area of accountability and responsibility?

2. Government-Nonprofit Relation Models: Dual or Collaborative?

Gidron et al (1992: 16-20) presents four models of the government-third sector relationship: the *government dominant model*, the *dual model*, the *collaborative model* and the *third sector dominant model*. In the *government dominant model*, government plays the dominant role in the financing and delivery of human services. The model is recognizable in the conventional notion of the “welfare state.” At the opposite extreme is the *third sector dominant model*, in which voluntary organizations play the dominant role in the funding and delivery of services. Given the prominence of the private sector and market in this model, an alternative term for this model could be the “market model.” With regard to the function of regulation, government and market, respectively, constitute the primary regulatory mechanism in the two models.

In between these two extremes are the *dual* and the *collaborative* models. In the *dual* model, both government and nonprofit sector are involved in financing and delivering human services, but each in its own separately defined sphere. There are two submodels here, the *supplement* submodel and the *complement* submodel. In the former, nonprofits deliver the same kinds of services as government but only to clients not reached by the state. In the *complement* submodel, nonprofits fill needs not met through government activity. In either case the distinguishing feature is the existence of two sizable, but relatively autonomous, systems of service finance and delivery.

In the *collaborative model*, by contrast, government and the third sector work together rather than separately. Typically, government finances third sector organizations that provide services. We can place the United States in this category. We can subdivide this model further according to the extent of service provider discretion involved. In a case where nonprofits merely function as agents of government program administrators in the area of policy implementation with little discretion or bargaining power we have what can be termed the “collaborative-*vendor*” submodel. On the other hand, where third-sector organizations retain a considerable amount of discretion in managing programs and during policy implementation or in policy planning we have a case of what might be termed a “collaborative-*partnership*” submodel. In the collaborative *partnership* submodel regulation is carried out through

government and voluntary sector “mediating structures.”

As in the proverb “he who pays the piper calls the tune,” the collaborative-*vendor* model might be assumed to be the most common form of government-third sector relations. Gidron et al (1992: 19-20), however, suggest that given the political clout of third sector and the difficulty that large government agencies face in monitoring contractors, the collaborative-*partnership* model may actually be more common in practice. The resulting situation is akin to that which has been characterized as “welfare pluralism” (Taylor, 1992: 150) or, alternatively, “third-party government” (Salamon, 1995: 18).

The next question is how might we best characterize the present situation of the Japan’s NPOs in the area of public services delivery? Does the government-NPO relationship fit the *dual* or the *collaborative* model? Do NPO activities *supplement* or *complement* those of government and are we looking at a role of *vendor* or *partner* role? These questions will be considered in the following sections.

3. The Present Situation of Japanese NPOs: Increasing Numbers of NPO Corporations and Public Interest Corporations Controlled by Government

The Law to Promote Specified Nonprofit Activities or the NPO Act was enacted in March 1998 and went into effect that December. This was an epoch making development because the new law made it possible for many citizen and voluntary groups to be granted status as an NPO corporation (*NPO hojin*). However, Japan still has no all-encompassing legal structure for chartering of nonprofit organizations.² The number of NPO corporations has been increasing.³ These NPO corporations vary widely in size and can be found in such fields as health, welfare, education, environment, human rights and international cooperation. In general, they are smaller and more independent of the government than the traditional *koeki hojin* or public interest corporations. Regrettably there is at present insufficient data to draw firm conclusions, but it does appear that they generally supplement and complement governmental services and thus act as partners of government.

Public interest corporations (*koeki hojin*) based on Article 34 of the Civil Code adopted in

² The NPO Act was written as a “special exception” to Article 34 of the Civil Code, the article that provides the legal foundation for public interest corporations (*koeki hojin*) (Yamamoto, 1999: 122).

³ Japan’s national and prefectural governments have so far certified 4,060 of the 4,811 accepted applications for designated nonprofit activities corporation status. Only 20 were rejected. But citizen volunteer groups (*shimin katsudo dantai*) without corporate status are much more numerous. There were 87,928 such groups in September 2000. See <http://www5.cao.go.jp/98/c/19981217c-npojyuri.html/> and <http://www5.cao.go.jp/seikatasu/2001/0409shiminkatsudou/main.html/>.

1898 are generally bigger and more interdependent vis-a-vis government than are the NPO corporations and, in their relationship with government, tend to act as an agent or vendor under the control of government. Salamon and Anheier (1996: 92), in a comparative study, concluded that Japan was the most restrictive of among the developed countries with regard to the difficulty involved in establishing a nonprofit corporation. Even if an NPO meets the stipulated requirements for becoming a *koeki hojin*, it is difficult to obtain permission from the governmental agency overseeing the field in which the organization hopes to operate and to obtain the required financial assets, which are substantial. Moreover, because most ministries have laws of their own that stipulate the kinds of NPO they will authorize and in fact prefer a compartmentalized system, most NPOs must seek permission under the separate provisions of the government agency in charge. Therefore, the Japanese NPO sector is separated into a number of discrete subsectors built around a set of field-specific laws that permit the formation of not-for-profit institutions only for the performance of relatively narrowly defined functions and even then only with the permission of the designated governmental ministry.

As a result of these operational limitations, the nonprofit sector in Japan has remained small in relative terms, as shown in Table 1. The sector represents just 2.5% of total employment and only 3.2% of gross domestic product in Japan. However, the scale of Japanese economy is relatively large and thus the numbers for employment and expenditure are big in absolute terms. For instance, Japanese NPOs employ more people than do their counterparts in Germany, France, Italy, and the U.K. and employ more than three times as many as Japan's two largest private employers, Hitachi and Toshiba.

Education and health account for two-thirds of total nonprofit expenditures. Almost all of the NPOs in the former are *gakko hojin* or private school corporations, and almost all of the latter are *iryō hojin* or medical corporations. In social services, NPOs "play a more supplemental role, buttressing state-provided aid in certain narrowly defined areas, such as residential care for the elderly and day care for children under five. The specialized social welfare corporations (*shakai fukushi hojin*) active in this field therefore operate as quasigovernmental corporations"(Salamon and Anheier 1996: 94). As a general rule, if the supervising government agency has a direct interest in forming an NPO, the NPO will be approved but if not permission will not be granted.

Despite its critical role in to creating public interest corporations, the Japanese government has not been their principal source of financial support. Rather, 60% of nonprofit revenue comes from private fees and charges, the highest of any country examined in Salamon and Anheier's study. This is nearly equal to the total tuition receipts of private universities and schools. Government support is considerably more important outside of education. NPOs in

health and social services, for instance, receive most of their income from the public sector. Only 1% of nonprofit income is from private charitable contributions. One reason for this may be the limited tax deductions granted for such contributions in Japan.

Although Salamon and Anheier (1996) suggest that government exercises very strong powers as a consequence of its authority to grant the permission needed to obtain NPO status, it would be wrong to conclude from this alone that public interest corporations are best considered vendors. While the government-NPO relationship is close to that of a vendor in medicine, health and social services, it appears closer to that of a partner in education. We also need to pay close attention to the role of local governments because they provide more public services than does the national government.

4. The Reality of Outsourcing by Japanese Local Governments

According to the survey data published in the *Nikkei Regional Economic Report (Nikkei Chiiki Joho, 280: 2-21, 1997)*, all local governments in Japan outsource projects and do so because they anticipate cost reductions and because they consider outsourcing as a way to respond to the increasing variety of residents' needs. As Figure 1 shows, over 40% of local governments outsourced all of their projects to the private or NPO sector. Approximately 20% outsourced part of their services, and about 40% maintained direct operations.

Generally speaking, the degree of outsourcing was highest for the least technically complex service: e.g., city hall cleaning, school security, human services such as bathing assistance services, management for the special nursing homes for the elderly, management of the day care centers for the aged, and so on. By contrast, the degree of outsourcing was lower and the frequency of direct operation highest in areas such as car driving, day care and kindergarten management, school janitorial services, school lunch preparation, and city hall printing. Labor unions appear to be stronger and there appears to be a dearth of private or NPO organizations that can serve as outsourcing agents in rural areas. It is also interesting to note that local governments in suburban and new town areas more actively outsource than do those in central city or more traditional areas.

What effect did outsourcing have? More than 90% of all responding local governments answered that outsourcing had led cost reductions. More than half (56.4%) answered that the quality of services had remained comparable to those provided through direct operations while 36.9% responded that the quality of service had gone up.

5. The Monitoring and Accountability of NPOs

Just as market and government sometimes fail, nonprofits also sometimes fail. Salamon (1995: 44-48) points out four common types of failures in the NPO sector--philanthropic insufficiency, particularism, paternalism, and amateurism--and suggests that the government needs to supplement these, effectively turning government-nonprofit relations into collaborative relationship. The question that arises is what is the nature of the collaboration or partnership. If government as funds provider controls the nonprofit and the NPO is also accountable to government then it is an agent or vendor. But if the NPO retains discretion, it is a partner under the definitions put forward by Gidron et al (1992: 19-20). The issue, in other words, is the nature of the monitoring and accountability in the NPOs partnership with government.

If an NPO provides a service with no governmental financing, accountability is not an issue. But if the government finances an NPO, it needs to be accountable to the government. When this happens, it is necessary for the NPO as a de facto quasi-government to alter its values from those of individualism, regionalism, and discretion, to equity, egalitarianism, and rules. Information relating to the NPO will need to be more openly available to the government and public. In Japan, the Information Disclosure Act of 1999 (effective April 2001) targets administrative organizations only. As a result, despite the fact that they receive government funding, independent administrative corporations (*dokuritsu gyosei hojin*), special corporations (*tokushu hojin*), and all NPOs--including public interest corporation (*koeki hojin*) and designated nonprofit activities corporations or NPO corporations (*tokutei hieiri hojin or NPO hojin*)-are not subject to the law governing information disclosure.⁴ Some of these, however, are currently undergoing reform.

NPO information disclosure is important not just for government but also for the public. Scandals involving NPOs, the overseeing governmental agency and politicians sometimes occur. Such scandals occur because those involved are tempted to benefit their vested interest networks using illegal methods made possible by the fact that their activities are hidden from the general public. For example, the top bureaucrat of the Ministry of Welfare was arrested in 1996 because the social welfare corporation (*shakai fukushi hojin*) that managed special nursing homes for elderly in Saitama Prefecture had given him money illegally in return for favors.

⁴ However, Article 89 of the Japanese Constitution reads: "No public money or other property shall be expanded or appropriated for the use, benefit, or maintenance of any religious institution or association, or for any charitable, educational or benevolent enterprises not under the control of public authority."

While government has the authority to authorize the establishment of NPOs and designated private businesses and oversee the building of facilities for providing public services, the government also needs to monitor whether the NPO or private company obeys laws relating to their operations and activities. However, this kind of monitoring sometimes fails as well. For example, the illegal disposal of industrial waste by private companies has been increasing recently. The Industry Wastes Disposal Law adopted the Pollution Pay Principle (PPP) but the law had to be amended in 2000 to strengthen the regulation of the activities of waste disposal companies used by manufacturers.

6. Conclusion

First, the key phrase, “from government to governance”, means that government is no longer *the* decision-maker in the pursuit of the public interest, it is no longer the main provider of public services, and that “self-organizing and interorganizational networks” linking governments and non-profits are increasing in number. The NPO Act of 1998 has promoted this trend. Japan’s “aging” society also promotes this. The Public Care Insurance System began operation in April 2000 and volunteers and private companies to care for the elderly are desperately needed. Despite the fact that the NPO Act did not provide tax deductions for establishing NPO corporations, the situation will gradually improved.

Second, according to the models of Gidron et al (1992), government-NPO relations can be categorized as dual or the collaborative. Given the fact that the NPO corporations and volunteers are generally small and independent of government, the government NPO relationship involved seems to involve the supplementing or complementing of governmental service, or that of a partner. By contrast, public interest corporations (*koeki hojin*) are often bigger and more interdependent with government. The relationship tends to be one in which they serve as an agent of government or a vendor of government services. The advocacy or think tank function of NPOs in Japan is becoming more important, but is not yet a strong one.

Third, the accountability and monitoring of NPOs and private companies is important because in a governance situation NPOs and private companies are providing public services and are financed by government and tax payers need to know whether their taxes are being used effectively and efficiently by them. Information disclosure on the part of NPOs and private companies using public money is strongly needed. The recurrence of scandals and illegal acts in the process of providing public services shows that the monitoring and accountability system is still weak.

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